

NRR-2003-07

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From: Gregory Cwalina
To: Crutchley, Julie
Date: 9/25/2006 9:44:32 AM
Subject: Fwd: Re: Greg,

>>> Jim Dyer 09/25/2006 9:38 AM >>>

Greg, please make this exchange part of the allegation file if we can do that. Jim.

>>> Gregory Cwalina 09/25/2006 6:22 AM >>>

I discussed your proposal with OE staff responsible for the allegation program and policy. I was advised that releasing allegation material, such as a closure letter, is to be avoided, as it could jeopardize not only the confidentiality of the individual that raised the concern, but the viability of the program for others as well.

>>> Evangelos Marinos 09/19/2006 3:59 PM >>>

Greg,

As I indicated to you at the management retreat on September 6, 2006, I believe that we should revisit the basis for the confidentiality extended to Caldon on the allegation they have made against the Westinghouse / AMAG Crossflow UFM. The record is replete with Caldon's public letters to the NRC, on their allegation, dating back to February of 2000, including a public meeting on March 8, 2000 where they and a number of their consultants challenged the integrity of the Crossflow UFM. The meeting proceedings appeared in the March 13, 2000 issue of Inside NRC.

The confidentiality applied on our formal response to Caldon's allegation has provided a cover for Caldon to hide the NRC's final decision that confirms the adequacy of the Crossflow UFM technology, and allowed them to file their frivolous law suit against Westinghouse/AMAG, on the vague conclusion reached in the Task Group Report, which predates and is inconsistent with the allegation response. Further, as stated in internal communications, the Task Group conclusion is a snapshot and has no technical merit because no consideration was given to important information documented by Westinghouse, prior to the issuance of the report, by the Task Group and so stated in their internal transmittal memorandum to: T. R. Quay, from: Jared Wermiel, dated May 20, 2004.

As you recall, it was not until some time in 2003 that Caldon attempted to again meet privately with the I&C staff to discuss their renewed contentions against the Crossflow UFM through a slide presentation. We reviewed the presentation slides and determined that they did not contain proprietary information to warrant a closed meeting. Caldon was, subsequently, informed that they could come for an open public meeting or withdraw their presentation slides. Caldon elected to withdraw the slides, but a copy was retained by the Allegations Coordinator and those slides were used to construct the formal allegation (an unexpected gift for Caldon).

The formal allegation constructed on behalf of Caldon does not contain any information that Caldon has not, to date, publicly documented in their contentions against the Crossflow UFM. In fact in their letter to the NRC dated March 15, 2000, Caldon states our ideas are not derived from our knowledge of any particular product, such as Crossflow UFM. The information is based on their understanding of ultrasonic cross correlation techniques. I, therefore, again state, as I have stated in the past, the confidentiality extended to Caldon is indefensible and unfair, particularly now that Caldon is manipulating our process by keeping hidden the NRC position on the Crossflow UFM, that was presented to them in the Allegation Closure Letter.

There is an ethical and legal matter that must be dealt with if we continue to maintain this confidentiality that places the NRC in a position of an unwitting participant in Caldon's grand scheme to obtain market advantage.

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I, further, believe that public disclosure of the LTs collective decision on the Caldon allegation will remove Caldon's basis for the law suit and we will avoid a potentially lengthy litigation that will invariably draw the staff's participation.